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questions similar to those which were discussed or determined in the great case of *Marbury against Madison*,—questions whose roots strike deep down into the foundations of the national structure.

"Whether a distinct and positive return by the president to the writ that his public duties require him to remain at the seat of government, or at his residence for the time being, or a return that he refuses to produce a given document because the public interest forbids its publication,—whether such a return is conclusive upon the court was, as I have said, not decided by the chief justice on the Burr trials; but if I may venture an opinion on the point it is that such action on the part of the president solemnly taken is not subject to judicial revision, and obviously it is not capable of judicial enforcement against the executive. If the president under the constitution is the sole judge of what the public interest requires of him, his judgment ought to be received by the court without question or criticism. At all events the utmost the court could properly do, would be to express its opinion as to the legal rights of the defendant, cause it to be recorded and officially certified to the president, who would thus be compelled to assume the public responsibility for his action. Any other course would involve two co-ordinate branches of the government, each in its sphere equal and independent, in an unseemly conflict, and a fruitless conflict so far as the court is concerned, because of its inability to give effect to its decision against the executive."

Judge Dillon's text here quoted is enriched by numerous interesting notes, but their reproduction here would swell this already long quotation beyond all reasonable limits. Enough, however, has been given to show the character of the work and to whet the reader's appetite for the rich feast that follows:

FLOYD R. MECHEM

A TREATISE ON THE LAW OF BANKS AND BANKING. By John T. Morse, Jr. Fourth edition, revised. Frank Parsons, editor. Two volumes. Little, Brown & Co. Boston.

The daily declaration of the law by our great number of courts, each court with its own view point, and each declaration influenced by its own peculiar circumstances, has been the prolific source of increasingly complex problems in nearly all branches of the law. This, taken with the other fact, that the demands upon the lawyer who is really doing the business of his profession, are very exacting, seems to make necessary the assistance which comes through the labors of competent men in gathering and classifying the authorities in these various branches of the law. This is particularly true in those fields of the law which control and regulate our great, and rapidly developing, commercial interests. In the law of banks and banking this need has been well met in the recent edition of *Morse on Banks and Banking*, by Mr. Frank Parsons, of the Boston bar, who also edited the third edition.

This work has been most favorably considered by the profession since the publication of the first edition in 1870. The courts have freely endorsed its declarations of the law, and no one has seen fit either to criticize adversely its analysis of the subject, its method of discussion of problems or to suggest any lack of thoroughness in the editor's investigations, or of accuracy in the statement of the results of such investigations. It is to be said that no edition

of the work has been more worthy of the approval of the profession interested in this branch of the law, than the one just from the press, and the good reputation earned by former editions will be sustained by this new one.

Mr. Parsons has made some revision of the text as found in the last previous edition; not general however, in the sense that any great portion of it has been rewritten, but only such changes have been made as the development of the law in the last fifteen years has seemed to make necessary or desirable.

Some new matter has been added to the text. The federal banking laws enacted since the publication of the last edition, have been incorporated; the National Reporter citations of cases used, where found in this system, have been added to the citations of the official reports and, as Mr. Parsons says, about eighteen hundred new cases have been used in this edition.

The more difficult subjects have received the attention their character demanded. The fullest discussions are found upon the questions of the authority of the various officers of the bank; the liability of the bank for the acts of its agents, particularly for their tortious conduct; the effect of notice to the various officials of the bank, notably to such as are not specifically administrative officers; the different kinds of deposits and the consequent varying measures of responsibility of the bank; the effect of a check, and the responsibility of the bank for the acts or defaults of its correspondents.

The reviewer confesses that his examination will not permit an opinion upon the accuracy of the citations of authority based upon any test of this feature of the work, but the reputation of the editor carries reasonable assurance of satisfaction in this regard.

The book is published by Little, Brown & Co., Boston, and their reputation for excellence in their work, deservedly earned in a business career of a century or more, would lead us to expect the best, and this we have in this edition of the work of Mr. Morse.

V. H. LANE

AMERICAN STATE REPORTS. Vols. 88 and 89. San Francisco, Cal. Bancroft-Whitney Co. 1903.

This great series of reports increases in value and importance with each succeeding volume. See I MICHIGAN LAW REVIEW, 155, 426. The cases are well selected and the annotation is practical and helpful. Volume 89 contains exhaustive notes on *ESTOPPEL OF A TENANT TO DENY HIS LANDLORD'S TITLE*; *WHEN A SECOND MARRIAGE HAS BEEN CONTRACTED, ON WHOM RESTS THE BURDEN OF PROOF OF THE TERMINATION OR ABSENCE OF TERMINATION OF THE FIRST, AND WHAT EVIDENCE IS SUFFICIENT*; *THE COMMON LAW POWERS OF GUARDIANS*, covering 60 pages; *THE RIGHT OF A SHERIFF TO INDEMNITY FOR SERVICE OF CIVIL PROCESS*; *WHAT CONSTITUTES A TESTAMENTARY WRITING*; *THE EFFECTS OF THE CONSOLIDATION OF CORPORATIONS*, covering 53 pages; *THE ADMISSIBILITY OF EVIDENCE OF THREATS IN PROSECUTIONS FOR HOMICIDE*; *THE RIGHT OF PRIVACY*; and *PARTY WALLS*; in addition to many shorter ones. The wide range of the selection is shown by the fact that the cases are taken from the reports of states extending alphabetically from Alabama to Tennessee, the volumes covered being 130